

RESPONSE TO NON-FINAL OFFICE ACTION OF OCTOBER 29, 2004

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Remarks

Introduction

This paper responds to the pending Office Action. The accompanying Transmittal presents a request for an extension of time to respond and the payment of any necessary extension (or claim) fees.

Applicant respectfully submits that the claims define patentable subject matter over the applied references and request the removal of the rejections and issuance of a Notice of Allowability and a Notice of Issue Fee Due.

Rejection of Claims 1-3, 7-13, 15 and 16

The Primary Examiner has rejected claims 1-3, 7-13, 15 and 16 as being obvious over Duty in view of either Giugliano or Barnes. Applicant requests the removal of the rejection for the reasons advanced hereinafter.

The now amended claims call for the "single strap" to "exclusively maintain":

- the primary tote bag and secondary tote bag in the rolled up condition [independent claims 1, 17 and 21]; and
- the primary tote bag about the secondary tote bag [independent claim 9]

The essence of the rejection is that either Giugliano or Barnes addresses the recitation wherein the primary tote bag has a single strap mediate of the handle. Applicant respectfully submits that Giugliano does not teach a single strap that exclusively maintains the relationship between the primary tote bag and the secondary tote bag as claimed by the amended claims. Instead, Giugliano uses a trio of straps as shown in FIGS. 1 and 2 to secure the bag in a rolled up condition. Applicant respectfully submits that the combination of Duty and Giugliano cannot teach or suggest the invention per the amended claims.

In regard to the rejection based upon the combination of the Duty patent and the Barnes patent, to the extent that Barnes discloses straps, these straps are located on the curling iron carrier. Assuming *argued* that there is any analogous structure between Barnes and the Duty patent, the straps of Barnes are on the secondary bag (i.e., the curling iron carrier) and not on the primary bag (the carrying bag (34)). Applicant thus submits that Barnes cannot

In re Application of DUTY )  
Serial No. 10/635,121 ) Examiner: Tri M. Mai  
Filed: August 6, 2003 ) ART UNIT 3727  
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modify Duty to address the current invention per the claims under rejection, which require that the single strap is on the primary tote bag.

**Rejection of Claims 4-6, 14 and 17-22**

The patent examiner has rejected claims 4-6, 14 and 17-22 as being obvious over Duty in view of either Giugliano or Barnes and in further view of England. Applicant submits that this rejection lacks merit for the reasons set out below.

First, with respect to the combination of Duty in view of either Giugliano or Barnes, applicant reiterates the comments advanced above as to the lack of merit of either grounds of rejection.

Second, applicant submits that there is no teaching or motivation or suggestion to combine England with Duty. England pertains to a V-shaped portfolio that folds out to an open position or folds shut to a closed position. While England discloses a pocket on the exterior surface of the portfolio, there is no teaching or motivation or suggestion to combine such a structure with Duty to arrive at the claimed invention.

**Rejection of Claim 23**

The patent examiner has rejected claim 23 as being obvious over Duty in view of either Young et al. or Barman. Applicant submits that claim 23 depends from claim 21 and is patentable for all of the reasons advanced in support of the patentability of claim 21.

**Conclusion**

Applicant submits that the claims define patentable subject matter and requests the issuance of a Notice of Allowability and a Notice of Issue Fee Due. If the patent examiner disagrees with the applicant's arguments, but has suggestions to place the claims in form for allowance, applicant urges the Examiner to telephone the undersigned at 615-662-0100 to

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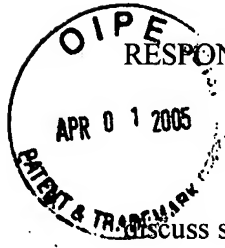
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discuss such suggestions.

Respectfully submitted,

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